

Town of Amherst  
Zoning Board of Appeals - Special Permit

*DECISION*

**Applicant:** Amherst Housing Authority

**Date Application filed with the Town Clerk:** July 14, 2004

**Nature of request:** Petitioners seek to modify existing Special Permit ZBA FY 82-88, to allow interior renovation of the building known as Ann Whalen Apartments.

**Location of property:** 33 Kellogg Avenue (Map 14A, Parcel 65, R-G Zone)

**Legal notice:** Published in the Daily Hampshire Gazette on July 26 and August 2, 2004 and sent to abutters on July 26, 2004.

**Board members:** Tom Simpson, Ted Rising and Joan Golowich

**Submissions:**

Amherst Housing Authority submitted the following documents:

- An Affidavit of Donna Crabtree regarding posting of notices
- A packet of information describing the number of employees at Amherst Housing Authority, where they are located and the services they provide, as well as information on existing and proposed office space
- A document, provided by the University of Massachusetts, entitled "Space Planning Guidelines"
- A chart (entitled "AHA Office Conversion") presenting average square footage per office for existing and proposed conditions
- A set of architectural plans prepared by Kraus-Fitch Architects, Inc., entitled Amherst Housing Authority, Office Conversion, dated May 20, 2003 and June 6, 2003
- A colored set of plans, entitled Ann Whalen Apartments, Current Use, Phase One, Phase Two and Completed Plan, prepared by Amherst Housing Authority
- A Narrative regarding Chapter 34 and an Analysis of Building Code requirements, prepared by Laura Fitch of Kraus-Fitch Architects, Inc., dated April 2004 and revised May 27 and 28, 2004

Felicity Hardee, of Bulkley, Richardson and Gelinas, LLP, attorney for Amherst Housing Authority, submitted the following documents:

- Letter dated July 14, 2004, amending the application of Amherst Housing Authority, to delete the request for modification of the zoning variance
- Letter dated July 14, 2004, enclosing application documents and requesting a waiver of submittal of a site plan
- Letter dated August 5, 2004, listing and submitting the following items:
  - Building Permit Application for the renovation project
  - Variance granted by the ZBA in 1972
  - Special Permit granted by the ZBA in 1983
  - Amherst Housing Authority Mission Statement and Management Plan
  - Correspondence from Carole E. Collins, Director, Bureau of Housing Management for Department of Housing and Community Development, undated, in support of the AHA application
  - Correspondence from Audrey Child, past-Chair of Amherst Housing Partnership/Fair Housing Committee, dated August 4, 2004, in support of the AHA application
  - Correspondence from Catherine Bennett, Program Director of Grace House, dated August 4, 2004, in support of the AHA application
  - Correspondence from Jon Hite, former Chairperson of Amherst Housing Authority, dated August 3, 2004, in support of the AHA application
  - Correspondence from Paula A. Rodak, Property Manager of Village Park Apartments, dated August 4, 2004, in support of the AHA application
  - Petition of Amherst residents in support of the renovation project, with 14 signatures
- Letter dated August 9, 2004, listing and submitting the following items:
  - Letter from Rita Farrell, Director of Community Housing Initiatives, Massachusetts Housing Partnership, dated August 6, 2004, in support of the AHA application
  - Letter from Nancy Gregg, Board President of the Amherst Survival Center, dated August 4, 2004, in support of the AHA application
  - Letter from Janet Shaw, Director of Independent Living, of the Stavros Center for Independent Living, Inc., dated August 5, 2004, in support of the AHA application
  - Letter from Nancy H. Pagano, Interim Director, of the Bangs Community Center, dated August 5, 2004, in support of the AHA application
  - Letter from Erik Pietz, Property Manager of Mill Valley Estates, dated August 6, 2004, in support of the AHA application
  - Petition from members of the Cambodian community of Amherst, in support of the AHA application, with 13 signatures

- Two petitions from residents of the Town of Amherst, in support of the AHA application, with a total of 25 signatures
- A document entitled “Employee Services to Ann Whalen Apartments”

The Planning Department submitted Memorandum 2004-28, dated August 4, 2004, outlining issues related to zoning, previous permits, dimensional and parking requirements and other issues that remained to be resolved.

The Planning Department also submitted Memorandum 2004-29, dated September 17, 2004, reporting on statements made and information presented at the August 9<sup>th</sup> public hearing and listing information and documentation submitted since the August 9<sup>th</sup> hearing.

Alan Root, a resident of Ann Whalen Apartments, submitted the following documents:

- Letter, dated July 12, 2004, to Inspection Services and the Zoning Board of Appeals, requesting to be kept informed of applications and requests made by Amherst Housing Authority
- Letter, dated July 26, 2004, to the Building Inspector, alleging that Amherst Housing Authority is not in compliance with its Variance and Special Permit
- Letter, dated July 26, 2004, to the Zoning Board of Appeals, requesting that Zina Tillona, Chairperson of the Board, recuse herself from serving on the Zoning Board of Appeals panel for this application
- Document entitled “ZBA FY 05-0001, Ann Whalen House”, analyzing the Variance, the Special Permit and the Zoning Bylaw with reference to this application
- Document entitled “Proposed Site Tour of Ann Whalen Apartments for ZBA Hearing Panel, Thursday, August 5, 2004”
- Document entitled “Ann Whalen Apartments: Loss of Tenant Space”
- Document entitled “Ann Whalen Apartments Alternative Conversion”, describing Jean Elder House as an alternative location for office expansion
- Letter, dated August 8, 2002, to Melanie Cahill, Bureau of Asset Management, DHCD, in opposition to the expansion of office space at Ann Whalen Apartments
- One page of Minutes from a General Meeting, dated August 14, 2002, which mentioned the plan to move Ms. Heidi Overby to another apartment
- Document entitled “Amherst Housing Authority, Proposed Office Space, Fact Sheet”
- One page of Minutes from a Select Board Meeting, dated August 20, 1990, with an excerpt regarding a plan to reserve 12 parking spaces for use by Amherst Housing Authority staff in the “old postal workers parking lot”
- Document entitled “ZBA FY 2005-00001 – Arguments AGAINST granting of Special Permit under provisions of 10.38”
- Letter, dated September 2004, in opposition to the AHA application

- Letter, dated September 2004, regarding possible environmental problems at Ann Whalen Apartments

Other documents were submitted as follows:

- Letter from Franklin E. Wells, resident of Ann Whalen Apartments, dated August 9, 2004, in support of Amherst Housing Authority's application
- Letter from Joanne Levenson, Director of Commuter Services and Housing Resource Center at the University of Massachusetts, dated August 5, 2004, in support of the application

**Site Visit:** August 5, 2004

Board members Tom Simpson, Ted Rising and Joan Golowich attended the site visit. At the site visit the Board observed:

- The building housing the Ann Whalen Apartments, located one block from the center of town, surrounded by residential, community, retail and restaurant uses
- The interior of the first floor of the building, including:
  - The main entry and interior spaces currently being used as offices,
  - The garage spaces currently being used for maintenance and storage and to house two tenants' cars and garden tools
  - The apartment and garden area currently occupied by Heidi Overby and the vacant apartment next door
- The parking area to the east of the building, where tenants and staff park in assigned parking spaces.

**Public Hearing:** August 9, 2004.

The public hearing, originally scheduled to be held in the First Floor Meeting Room in Town Hall, was moved to the Town Room due to the large number of people in attendance.

At the public hearing, Felicity Hardee of Bulkley, Richardson & Gelinas, LLP, attorney for Amherst Housing Authority, presented the petition. Also in attendance, for the petitioner, were Donna Crabtree and Nancy Schroeder of the Amherst Housing Authority, and Laura Fitch, of Kraus-Fitch Architects, Inc., the architect who had prepared the plans.

Ms. Hardee listed some of the items that had been submitted since the application was filed. These are enumerated above, under "Submissions".

Ms. Hardee made the following statements:

- Amherst Housing Authority would like to modify its existing Special Permit issued in FY 1982.
- The building has a mixed use, including residential apartments and offices.
- No changes are being made to the footprint of the building.

- Amherst Housing Authority is proposing to redistribute existing uses on the first floor.
- The offices serve residents of Ann Whalen Apartments and other affordable housing units in town; approximately 640 residents are served.
- Amherst Housing Authority administers several housing programs.
- Because of space limitations, the services are truncated.
- The Housing Authority administrative staff is spread out around the first floor of the building and therefore it is hard for the people who need services to locate the appropriate staff member for assistance.

Nancy Schroeder, of Amherst Housing Authority, presented the current and proposed layout of the office space. She referred to plans entitled "Current Use", "Phase One", "Phase Two" and "Completed Plan" and made the following statements:

- Currently offices are located to the left and the right (east and west) of the breezeway
- Apartment #7, west of the breezeway, currently houses two offices with three people
- The 1982 extension was built within the existing breezeway area; it currently houses three offices and a waiting area
- There are now three offices to the east of the breezeway, plus an administrative storage area in the hallway across from Apartment #9
- Phase One would move offices from Apartment #7 and the 1982 extension and relocate them to Apartment #9 (now vacant), to the former administrative storage area and to the northern half of the maintenance shop; there would also be storage areas within these spaces; a conference room would be added to Apartment #9.
- Phase Two would involve converting Apartment #10 (now occupied by Ms. Overby) and the two existing garage spaces (now used by Ms. Overby and Mr. Root), at the southwest corner of the building, to office space, for a total of four more offices; under Phase Two, the 1982 extension in the breezeway would become a space for tenant use or it would be used for nursing outreach, but it would not revert to office use.
- The Completed Plan would have all of the offices consolidated on the east side of the breezeway, with a reception area in front, where a receptionist would direct visitors to the appropriate office.

Ms. Hardee addressed the issue of parking, referring to a color-coded plan. She made the following statements:

- There is a parking lot on the east side of the Ann Whalen Apartments, part of which is owned by the Amherst Housing Authority and part is owned by the Town of Amherst; in the Town of Amherst lot, parking spaces have been reserved for AHA staff; in the AHA lot, parking spaces are reserved primarily for tenants of Ann Whalen Apartments.

- Amherst Housing Authority offices are conveniently located at the Ann Whalen Apartments, accessible to the downtown area and to mass transit stops. The offices are also close to the public parking garage, which can be used by visitors, home health aides and others who come to assist the residents of Ann Whalen Apartments.
- Carole Collins, former AHA Director, wrote a letter in support of the expanded administrative space for AHA.
- The Special Permit, granted in FY 1982, spoke about the need for a private space to meet with clients of AHA; the proposed conference room would serve this purpose.
- AHA serves many people in the Cambodian community who have large families, many of whom do not speak English; there is currently no conference space large enough to accommodate a large group of people, including a translator; the new conference room will help in this regard.
- Amherst Housing Authority understands that the Phase Two renovations will modify the apartment and garage spaces of some tenants; AHA will work with these tenants to ameliorate the effects of the changes.

Donna Crabtree, Executive Director of Amherst Housing Authority, presented the following facts and information:

- She summarized the AHA Mission Statement and Management Plan, outlining hours of operation, number of employees, and services provided to the Amherst community by the AHA.
- She talked about the locations of the residential units served by the AHA, the numbers of applications received each year for housing, and the need for a location easily accessible to the people who need services.
- She stated that Apartment #9 has been used in the past for office space for contractors and clerks of the works, setting a precedent for using apartments as office space.
- She stated that it is common to use portions of apartment buildings for office space; both Northampton and Holyoke use portions of their public housing buildings for administrative offices.
- She noted that AHA doesn't have the resources to pay market rates to rent office space.

Felicity Hardee stated that the only exterior changes would be façade treatments to enclose the existing garage bay doors. Laura Fitch noted that one bay door to the maintenance shop would be closed in with a window and masonry to match the existing building. The other garage bay door to the maintenance shop would remain in place. (There would be no direct exterior entrances to the new offices.)

Felicity Hardee and Donna Crabtree stated that there are currently 78 occupied residential units. There would be 78 occupied residential units after Phase Two is completed. There are currently 80 apartments altogether, with one being vacant (#9) and one being used for office space (#7).

Donna Crabtree discussed the anticipated time frame for the project. The contract for Phase One has already been put out to bid and the work will not take long to complete. Phase Two is planned to be completed within two to five years.

The Board noted that this Special Permit, if granted, will not lapse as long as substantial construction progress is being made.

Nancy Schroeder discussed the office personnel who currently use the office spaces and would use the new spaces. There are twelve employees, in total, nine of whom are based at the Ann Whalen Apartments. There are 6 full-time administrative employees and 3 part-time employees at Ann Whalen Apartments and 3 maintenance employees, who are based elsewhere.

Ms. Shroeder described the offices that these employees would occupy when Phase I is complete. She stated that Amherst Housing Authority is not planning to add employees at this time, but merely to relocate them.

Ms. Shroeder and Ms. Crabtree went on to say that the parking spaces for tenants are individually assigned. Currently all the tenant spaces are assigned. There is a new tenant who is on the waiting list for an assigned space.

Pam Predmore, of 120 Pulpit Hill Road, the Office Manager for the Amherst Housing Authority, stated that as each space becomes available it is assigned to a tenant. Parking is not part of the AHA lease with its tenants.

Attorney Hardee stated that the elimination of the interior parking spaces does not change the Housing Authority's legal obligation regarding parking with respect to tenants. The existing Special Permit states that there shall be one parking space for each four dwelling units and this ratio will be maintained.

There was a discussion of existing and proposed square footage of office space.

Heidi Overby, a resident of Apartment # 10 at 33 Kellogg Avenue, whose apartment and indoor garage space would be affected by the Phase II renovations, spoke in opposition to the proposed changes. She made the following statements and allegations:

- Discussion of the proposed changes began two years ago.
- The Board should not grant a permit for Phase II until Phase I has been completed.
- Ms. Overby needs five years to plan and execute a move.
- She uses her garage space for storage and to keep her garden tools.
- She considers the proposed changes “life-threatening”.
- She has been a tenant at Ann Whalen Apartments for 15 years; she needed to move after being in her old apartment for 10 years.
- That relocation cost her \$1,000, including moving, cleaning and sanitizing the new apartment; it took her several months to make the change.
- A promise was made that she would not be ordered to vacate her apartment to accommodate the proposed changes.
- She presented the Board with Minutes of a meeting in which her move was “cancelled”.
- She has a chronic illness involving nerve degeneration; having her car nearby is important because of her lack of mobility.

Alan Root, a resident of Ann Whalen Apartments, spoke in opposition to the proposed renovations. He made the following statements and allegations:

- He has lived at Ann Whalen Apartments since 1983.
- All five interior parking spaces were originally meant to be used by tenants; only two are currently being used for tenant parking.
- There is a shortage of parking spaces for Ann Whalen tenants.
- Renovation work has been done in the building over the past twenty years without the appropriate permits.
- The number of AHA employees does not warrant the amount of office space being created for them.
- The proposed offices are very large and should be shared by two people, thus requiring less total office space.
- There is an alternative to locating offices at Ann Whalen Apartments; the Jean Elder House is the alternate site.
- Security is a problem; it is important to keep non-residents away from residents' apartments; many clients of Amherst Housing Authority do not live at Ann Whalen Apartments.
- Tenants' recreation space has been lost over the years because of office expansion and other uses.
- Mr. Root uses his garage space to park his car and to store his gardening equipment, which he uses to enhance the outside of the building.



- The south side of the building, in particular, is improved by having the gardening equipment nearby.
- It is not good to take apartments off-line for other uses.
- The Board should only grant a permit for Phase I at this time; the extra space in Phase II may not be needed in the future.
- Phase II should have its own Special Permit process.

Connie Krueger, of the Massachusetts Housing Partnership, spoke in favor of the renovations. She made the following points:

- She mentioned the letter from Rita Farrell, also of the Mass Housing Partnership, in support of the renovations.
- She has visited 15 to 20 housing authorities throughout the state and has found that it is not uncommon to have offices in residential apartment buildings; the amount of office space being proposed here is not unusual.
- Amherst Housing Authority accomplishes a lot for people who need their services; they try hard to accommodate their tenants' needs.

Pam Predmore offered information about her own history as a client of the Amherst Housing Authority. She is now the Office Manager for Amherst Housing Authority and is a volunteer on the citizens' advisory committee. She supports Amherst Housing Authority in its application and thinks it is important for AHA to be located on a bus route for people who do not have cars.

Margaret Macomber, a resident of Ann Whalen Apartments, spoke in opposition to the proposed renovations and in support of Ms. Overby, but she is grateful for the housing provided to her and for what Amherst Housing Authority does for people who need their help. She suggested waiting until Apartment #10 (Ms. Overby's) is vacant before carrying out the renovations planned for Phase II.

Ed Cutting, of 365 Lincoln Avenue, spoke in support of the petition, noting that other apartment complexes in town had large office suites, and he made the following points:

- He offered the example of the office for the Boulders Apartments which occupies an entire basement of one building, and Pufton and Village Park Apartments which both have large offices.
- In addition, the University of Massachusetts has 363 apartment units and it uses an eight-room house for its housing offices.

Attorney Felicity Hardee responded to the opposing remarks with the following points:

- Amherst Housing Authority applied for a Building Permit three months prior the public hearing, not knowing that a Special Permit would be required; this process has delayed their renovation program considerably.
- A contract for the Phase I renovations has already been let out to bidders.

- It is not a large project, but is rather a consolidation of existing office space and an attempt to isolate the office function from the residential function.
- Apartment #7 on the ground floor will become available as a result of the renovations and Ms. Overby will be offered that apartment, in exchange for the one she currently occupies.
- There is a compelling reason for the AHA not to come back for another Special Permit for Phase II and that is the expense and time involved in the ZBA process.
- Phase II will not happen for 2 to 5 years; this will provide ample time for Mr. Root and Ms. Overby to make other arrangements.

Ted Rising MOVED to continue the public hearing. Joan Golowich SECONDED the motion. The Board VOTED unanimously to continue the public hearing to Thursday, September 16, 2004, at 8:00 p.m., in the Town Room, Town Hall.

#### **Continued Public Hearing**

On Thursday, September 16, 2004, at 8:00 p.m., Joan Golowich continued the public hearing to Thursday, September 23, 2004, at 8:00 p.m., in the Town Room, Town Hall, because of a lack of a quorum, due to Rosh Hashanah.

#### **Continued Public Hearing**

On Thursday, September 23, 2004, the Board met in the Town Room, Town Hall, to continue the public hearing.

Tom Simpson read the list of documents submitted to date. See list of Submissions on page 1.

Attorney Felicity Hardee reiterated that the Amherst Housing Authority was seeking a modification of its existing Special Permit to allow interior renovations at Ann Whalen Apartments. She focused the Board's attention on questions that had arisen during the August 9<sup>th</sup> hearing, particularly confusion about the amount of office space being created and consolidated. She presented the Amherst Housing Authority document entitled "AHA Office Conversion" along with colored plans showing how the spaces would change in Phase I and Phase II. She made the following points:

- The principle reason for the renovation is to consolidate the offices in one area of the building.
- There is confusion for visitors about where people should go and whom they should see.
- The total area of current use by the administrative staff is 1,584 square feet, of which 1,139 square feet is office space only.
- After Phase I is complete there will be a total of 1,799 square feet, of which 1,189 square feet will be office space only.

- After Phase II is complete, all of the office space will be on the east side of the building. There will be a total of 2,231 square feet used by the administrative staff, of which 1,722 square feet will be office space only.
- There will be an increase of about 600 square feet of office space only from the existing condition to Phase II.
- Tenants and the community will be better served by the consolidation.
- The relocation of the tenant in Apartment #10 is 2 to 5 years away.
- Amherst Housing Authority would bear all of the expense of the tenant's move.
- It is important to separate residences from offices within the building.
- There will be no loss of tenant space, since there are 78 tenant-occupied units now and there will be 78 tenant-occupied units when Phase II is complete.

Donna Crabtree made the following points:

- Tenants who lose indoor parking spaces will be offered assigned spaces outside.
- Amherst Housing Authority has grown over the past 30 years, from administering 110 units, when it began, to administering 646 units today, town-wide.
- Amherst Housing Authority has brought in \$1.6 million in funds for capital improvements to the town.
- Amherst Housing Authority has spent nothing on office space improvements for 21 years.
- AHA will be using two apartments for offices, but they have added 220 units for elders and people with disabilities in town in the past few years.
- When the renovations have been completed, Suite #8, the 1982 expansion in the breezeway, will be designated exclusively for tenant use, either as an apartment or as a space for support or assisted living services for tenants.
- The Jean Elder House was considered for the expanded office use, but the AHA Board wanted the Amherst Housing Authority's offices to be located in the center of town, convenient to its clients.
- The Jean Elder House is currently used as housing for mentally retarded residents who have been moved out of nursing homes; these 4 or 5 residents would need to be relocated, if the Jean Elder House were to be used for office space.

The Board inquired about tenant gardening activities.

Donna Crabtree explained that there are two or more active gardeners, including Mr. Root. The gardening tools stored in the garage space belong to Mr. Root. The Housing Authority could probably find some space to store garden equipment.

The Board inquired about whether Ann Whalen Apartments is located in the municipal parking zone. It was determined that it is within that zone.

Attorney Felicity Hardee and Donna Crabtree stated that one of the reasons that the Ann Whalen Apartments is such a desirable location for the AHA offices is that the staff serves a disparate tenant community who can get to the center of Amherst more easily than to another, less central, location.

The Board discussed other alternatives for the location of the offices and determined that there were good arguments for keeping the offices in the Ann Whalen Apartments.

Donna Crabtree stated that these renovations represent a comprehensive plan for the future of the Amherst Housing Authority. When Phase II is complete there will be an additional 600 square feet of office space and a conference room, in addition to storage and support spaces. This plan projects the future of the AHA fairly accurately. There may be one or two more staff people added in the future as AHA grows to serve new apartment units and as it adds new services.

Attorney Hardee noted that the demand for affordable housing is overwhelming.

Margaret Macomber, a resident of Ann Whalen Apartments, spoke in opposition to the renovations and in support of Ms. Overby and Mr. Root.

Jean Haggerty, a resident of Ann Whalen Apartments, spoke in support of the renovations. She made the following points:

- She has lived at Ann Whalen for 4 years.
- She requires 41  $\frac{3}{4}$  hours of assistance each week; she is only able to live independently at Ann Whalen because she has help.
- She has concern for the other 76 tenants at Ann Whalen who will not be negatively affected by the renovations but whose situations will be improved by the proposal.
- Tenants who wish to remain independent will have additional need for help as they age; the AHA staff will be adding services and will need the additional space, as proposed here.
- She anticipates growth and development of services to help all of the tenants; she has applied for a grant to start a wellness program.
- There will be space available to house these additional services when the staff is relocated to its new office space.

Heidi Overby spoke in opposition to the application and made the following points:

- She has physical and mental illness as well as a limited income.
- She uses a walker and a cane and is otherwise housebound.

- She depends on her car to get around and benefits from having an indoor parking space that doesn't need to be shoveled out in the winter.
- She appreciates having her car and her garden close to her apartment, and she would lose this proximity with the proposed renovations.
- The permit for Phase II should not be granted.

Judy Brooks, one of the commissioners of the Amherst Housing Authority, spoke in support of the application. She made the following points:

- Mr. Root and Ms. Overby did not come to the Housing Authority meetings when the proposed renovations were discussed to express their concerns.
- Mr. Root and Ms. Overby are the only tenants who have indoor garages.
- Apartment #9, the vacant unit, is often used by tenants to store items for tag sales and parties.

Raphael Lopez-Sanchez, of 30 Village Park, spoke in opposition to the application and made the following points:

- The rights of handicapped people, elderly people and veterans could be violated if the renovations are carried out.
- There is a need to enhance mobility and housing opportunities for elderly and handicapped people; apartments should be added to Ann Whalen Apartments, not taken off line.
- Amherst Housing Authority staff is on-site for about 8 hours a day; the tenants are there 24 hours a day; tenants' needs are paramount.
- The AHA could house their staff elsewhere and have an on-site manager for Ann Whalen Apartments.
- The Zoning Board of Appeals should hear from the Fair Housing and Human Rights Commission during the ZBA's deliberations

Alan Root spoke in opposition to the application. He took the following actions and made the following points:

- Distributed and discussed a document laying out arguments as to why the proposed renovations do not meet the criteria of Section 10.38 of the Zoning Bylaw.
- Distributed and discussed a document representing one page of the Select Board Minutes from August 20, 1990, in which employee parking for the Housing Authority was mentioned.

He also made the following statements and allegations:

- He has discussed the proposed renovations with Ms. Crabtree.
- He believes that this proposal requires a variance.
- The proposal involves a lot of disruption for the gain of very little office space.

- Clients of AHA who do not live at Ann Whalen Apartments will enter the building on the east side and will be able to “migrate” to residential areas of the building; this may produce a conflict between residents and visitors. In the past, people have come into the building through existing entry points and have been found sleeping in the hallways; the renovations will exacerbate the problem because there will be no tenants living on that hallway to police people’s comings and goings.
- The Select Board voted to reserve 11 or 12 parking spaces in the town-owned lot for Housing Authority staff, not residents.
- If two interior parking spaces are removed, the development may not meet the requirements of the existing Special Permits.
- There are conflicts with random parking of vehicles in front of Ann Whalen Apartments.
- Other housing projects have smaller offices.
- There had been a plan to move the AHA offices to the Jean Elder House on Chestnut Street.
- There are potentially environmentally damaging materials in the Ann Whalen Apartments which may cause health problems for tenants.

The Board requested that Mr. Root confine his comments to those related to zoning issues.

Mr. Root went on to say that parking is not adequate at Ann Whalen and that there is a need for a traffic study. He also stated that the Amherst Housing Authority failed to prepare an appropriate needs assessment prior to planning the renovations. He summarized his comments by saying that the building has inadequate parking, inadequate recreational space for tenants and potentially dangerous environmental problems. He urged the Board to disapprove the application because of parking problems, vehicular traffic and the proposal to take two elderly and handicapped apartments off-line. The need for additional office space does not offset the need for additional housing.

Steve Rogers, 99 Pulpit Hill Road, one of the Commissioners of the Amherst Housing Authority, spoke in support of the application and made the following points:

- He expressed appreciation to all of those who have taken an interest in the project and who have spoken at the hearing.
- He stated that the AHA doesn’t have the funds to move their offices to another building and to renovate a completely new space elsewhere.
- The Housing Authority is constrained in terms of money and space.
- Amherst Housing Authority needs to be located near a bus route so that tenants who live in outlying housing units can have access by bus to the AHA’s housing services.

- Amherst Housing Authority will have an expanding role in serving tenants in Amherst in the future.

Frank Wells, a resident of Ann Whalen Apartments and a member of the Housing Partnership/Fair Housing Committee, spoke in support of the application, and made the following points:

- Although he would like to see more apartments coming on line, he understands the needs of the Amherst Housing Authority for a central location and expanded office space, especially given the expanding housing stock in Amherst for which they are responsible.
- The longer the Housing Authority waits to do the renovations, the more it will cost.
- The Housing Authority works to establish more affordable housing for the community.

Pam Predmore spoke about the security issue. Currently, with the offices spread out, visitors have trouble figuring out where to go in the building. With the office consolidation, Ms. Predmore, as Office Manager for AHA will be able to assist tenants in finding where they need to go and who they need to see. She believes that the renovations will help to improve security in the building. Her goal is to help all of the tenants for whom AHA is responsible.

Connie Krueger, of 15 Hop Brook Road and an employee of the Massachusetts Housing Partnership, spoke in support of the application and made the following points:

- Amherst Housing Authority does a lot [for the community] with very little resources and space.
- The plan to expand the AHA office space is appropriate and it is a diversion to focus on environmental issues.
- The level of security in public housing in Amherst is higher than it is in any other community, to her knowledge.

Margaret Macomber stated that she was present at a meeting when Ms. Overby was assured that she would not lose her apartment.

Ted Rising MOVED to close the public hearing. Joan Golowich SECONDED the motion. The Board VOTED unanimously to close the public hearing.

**Public Meeting:**

At the Public Meeting the Board noted that it was generally in favor of the proposal, but they felt that tenants should not be displaced to accomplish the renovations and that 78 units should remain available for tenant use.

The Board noted that Amherst Housing Authority does good work. The issue to be resolved is how to meet the needs of the Housing Authority and the needs of the current and future residents.

The Board discussed whether Phase I and Phase II could be separated and whether a permit could be granted for Phase I only, with a request that the applicant come back for a new Special Permit for Phase II.

The Board also discussed the undesirability of moving a tenant out of an apartment to accommodate the renovations. They concluded that moving tenants out of garage spaces was not as undesirable as moving someone from an apartment.

The Board also concluded that, since Phase II would not be done immediately, they were in favor of approving both Phases at this time.

**Findings:**

Under Zoning Bylaw Section 10.38 the Board found that:

- 10.380 and 10.381 and 10.385 The proposal is suitably located in the neighborhood, is compatible with existing Uses and other Uses permitted by right in the same District and reasonably protects the adjoining premises against detrimental or offensive uses on the site, because it is near the center of town, surrounded by retail, office, restaurant and multi-family residential uses and is close to the public parking garage and the public transit system, and there are no detrimental or offensive uses being proposed.
- 10.382 and 10.383 The proposal will not constitute a nuisance and will not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians, because the proposal is merely an expansion of an existing office use which has operated on the site since the building was built in the early 1970's, without constituting a nuisance, inconvenience or hazard to abutters, and there will be no substantive change in the movement of pedestrians and vehicles outside the building as a result of the renovations.
- 10.384 Adequate and appropriate facilities will be provided for the proper operation of the proposed use, because the expanded offices will be housed in the building where the offices have been adequately housed for years.
- 10.386 The proposal ensures that it is in conformance with the Parking and Sign regulations because the conditions of the previous Variance and Special Permit will be maintained with respect to parking and no sign changes or additions are proposed.



- 10.387 The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets and property because there will be no proposed changes to vehicular or pedestrian movement other than the relocation of two cars from interior parking spaces to exterior parking spaces.
- 10.389 The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes, and methods of drainage, because these issues have been well taken care of over the previous thirty years and there are no changes proposed to these items.
- 10.398 The proposal is in harmony with the general purpose and intent of this Bylaw because it protects and promotes the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Tom Simpson MOVED to approve the application, with conditions. Joan Golowich SECONDED the motion. The Board VOTED unanimously to approve the application, with conditions.

**Zoning Board Decision:**

For all of the reasons stated above, the Board VOTED unanimously to GRANT a Special Permit, with conditions, to Amherst Housing Authority, to modify its Special Permit ZBA FY 82-88, to allow interior renovation of the building known as Ann Whalen Apartments, at 33 Kellogg Avenue, (Map 14A, Parcel 65, R-G Zone).

\_\_\_\_\_  
TOM SIMPSON

\_\_\_\_\_  
TED RISING

\_\_\_\_\_  
JOAN GOLOWICH

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2004 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2004.

NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2004  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2004,  
in the Hampshire County Registry of Deeds.

Town of Amherst  
Zoning Board of Appeals

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Amherst Housing Authority, to modify its Special Permit ZBA FY 82-88, to allow interior renovation of the building known as Ann Whalen Apartments, at 33 Kellogg Avenue, (Map 14A, Parcel 65, R-G Zone), with conditions, as follows:

1. No tenant shall be involuntarily moved from his or her apartment to accommodate the Phase I or Phase II renovations approved under this Special Permit.
2. If a tenant's interior garage space is to be eliminated to accommodate the Phase I and Phase II renovations, that tenant shall be provided with an assigned outdoor parking space.
3. The exterior construction shall match the existing exterior of the Ann Whalen Apartments building with respect to materials and colors.
4. All exterior lighting shall be downcast and shall not spill onto adjacent properties or roadways.
5. No fewer than 78 residential units shall be maintained for tenants use.
6. There shall be a minimum of 20 parking spaces maintained for tenant use.
7. Phase I renovations shall be completed according to the plan approved at the public hearing on September 23, 2004.
8. Final plans for Phase II renovations shall be submitted to the Board for approval at a public meeting, prior to issuance of a building permit.
9. There shall be a storage space provided for tenants' garden tools if such garden tools are ordinarily used to maintain common garden spaces around the Ann Whalen Apartments building.

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TOM SIMPSON, Chair  
Amherst Zoning Board of Appeals

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DATE